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13438  
RECORDATION NO. \_\_\_\_\_ FILED 1425  
JAS:CB

JAN 19 1982 - 12 35 PM  
INTERSTATE COMMERCE COMMISSION

PLEASE REPLY TO 280 PARK AVENUE

January 15, 1982

13437  
RECORDATION NO. \_\_\_\_\_ FILED 1425

JAN 19 1982 - 12 35 PM

Hon. Agatha Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION  
No.

Date JAN 19 1982

100.00

Dear Ms. Mergenovich:

Pursuant to 49 USC §11303 of the Interstate Commerce Act, there are transmitted herewith for filing and recording one executed notarized original, and one copy, of each of the two Agreements dated December 22, 1981 between General Electric Credit Corporation, as Tax Lessor, and National Railroad Passenger Corporation, as Property Owner, for the leasing of (1) Locomotives and Passenger Cars and (2) materials for Track and Betterments.

The name and address of the Property Owner are:

National Railroad Passenger Corporation  
400 North Capitol Street, N.W.  
Washington, DC 20001

The name and address of the Tax Lessor are:

General Electric Credit Corporation  
260 Long Ridge Road  
Stamford, Connecticut 06904

A check in the amount of \$100 to cover the filing fee also is enclosed.

Sincerely yours,

*Jennifer A. Sullivan*  
Jennifer A. Sullivan

*C. Anderson*  
*Stacy M. Duncan*  
Enclosures

**Interstate Commerce Commission**  
Washington, D.C. 20423

1/19/82

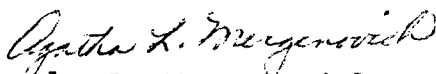
OFFICE OF THE SECRETARY

Jennifer A. Sullivan  
White & Case  
14 Wall Street  
New York, N.Y. 10005

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/19/82 at 12:35pm, and assigned re-  
recording number(s). 13437 & 13438

Sincerely yours,

  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

13437

REGISTRATION NO. .... Filed 1425

JAN 19 1982 12 35 PM

INTERSTATE COMMERCE COMMISSION

AGREEMENT

Dated as of December 22, 1981

Between

NATIONAL RAILROAD PASSENGER CORPORATION

and

GENERAL ELECTRIC CREDIT CORPORATION

---

Locomotives and Passenger Cars

---

THE PARTIES TO THIS AGREEMENT HAVE ELECTED TO CHARACTERIZE THIS AGREEMENT AS A LEASE, FOR FEDERAL INCOME TAX PURPOSES ONLY, PURSUANT TO SECTION 168(f)(8) OF THE INTERNAL REVENUE CODE

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For Convenience of Reference This Agreement May Sometimes Be Referred To As The "1982 Locomotives and Passenger Cars Agreement".

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## AGREEMENT

AGREEMENT, dated as of December 22, 1981, between National Railroad Passenger Corporation, a District of Columbia corporation (the "Property Owner"), and General Electric Credit Corporation, a New York corporation ("GECC").

WHEREAS, the Property Owner owns or will own the locomotives and passenger cars described in Annex A hereto, as amended from time to time hereunder (the "Property"), and represents herein, on the assumption stated in Section 3(c), that the Property is "qualified leased property" as defined in Section 168(f)(8) (D)(ii) of the Internal Revenue Code of 1954, as amended (the "Code"); and

WHEREAS, the parties desire that for Federal income tax purposes, and only for such purposes, GECC or one of GECC's affiliated corporations with respect to Property transferred on each Closing Date (as hereinafter defined), as shall be designated by GECC on or prior to such Closing Date, (the "Tax Lessor") be treated as the owner and lessor, and the Property Owner as the lessee, under a separate lease with respect to each item of the Property.

NOW, THEREFORE, it is agreed:

1. Characterization of this Agreement as a Separate Lease with Respect to Each Item of the Property for Federal Income Tax Purposes.

For Federal income tax purposes (and only such purposes), pursuant to Section 168(f)(8) of the Code, the Property Owner and the Tax Lessor each hereby characterizes this Agreement as a separate lease with respect to each item of the Property and hereby irrevocably elects to have the provisions of Section 168(f)(8) of the Code apply to this Agreement. In consequence, for such purposes the parties hereby agree to treat the Tax Lessor as purchasing each item of the Property from the Property Owner on the terms set forth herein on the Closing Date for such item of the Property, and to treat the Tax Lessor as the owner and lessor of each item of the Property and the Property Owner as the lessee and user of each item of the Property beginning with the Closing Date for such item of Property. Also for such purposes the Property Owner agrees to sell to the Tax Lessor

on the terms set forth herein the first Property placed in service on and after December 1, 1981 and through December 28, 1982 (and not transferred pursuant to the agreement between the parties dated as of November 1, 1981 referred to as the 1981 Locomotives and Passenger Cars Agreement) with an aggregate purchase price equal to the amount set forth in Annex A. "Closing Date" shall mean February 26, 1982 for each item of Property set forth in Part 1 of Annex A hereto and April 28, June 28, August 27, October 28 and December 28, 1982 (or such other dates as Property Owner and Tax Lessor may agree) for each item of Property set forth in Parts 2 through 6, respectively, of Annex A hereto. Each party hereby agrees (i) to sign or cause to be signed concurrently with each Closing Date duplicate copies of a statement in the form of Annex B hereto, or such other form as may be prescribed by law, with respect to the Property set forth in the relevant Part of Annex A hereto, (ii) to file with the Internal Revenue Service one of each such statements or, if available, to sign in duplicate and file with the Internal Revenue Service an information return or returns concerning the foregoing elections, in either case at the time and in the manner provided in Section 5c. 168(f)(8)-2(a)(3) of the temporary regulations under Section 168(f)(8) of the Code (the "Temporary Regulations") or at such time and in such manner as may otherwise be prescribed by law, and (iii) to make such other filings with the Internal Revenue Service, any other governmental agency and otherwise as Tax Lessor considers necessary to implement the purpose of this Agreement.

## 2. Terms of the Leases and Related Transactions for Federal Income Tax Purposes.

The terms of each of the leases (individually a "Deemed Lease", each reference herein to a Deemed Lease shall apply equally to each Deemed Lease) and certain related transactions which are treated as existing or occurring for Federal income tax purposes under Section 168(f)(8) of the Code by virtue of the characterization and elections provided in Section 1 of this Agreement are as follows:

(a) Purchase of Property by Tax Lessor. The Tax Lessor shall be treated for Federal income tax purposes (and only such purposes) as purchasing each item of the Property from the Property Owner on the Closing Date for such item of Property for a purchase price equal to the Property Owner's

Adjusted Basis for the item set forth in Annex A hereto, and such purchase shall be treated as having occurred prior to the item having been originally placed in service.

(b) Payment of Purchase Price by Tax Lessor. The Tax Lessor shall be treated for Federal income tax purposes (and only such purposes) as agreeing to pay the purchase price for each item of the Property as follows:

(i) The Cash Payment for each item of the Property set forth in Annex A hereto, which will be paid in cash by the Tax Lessor to the Property Owner concurrently with the Closing Date for such item of Property, shall be treated as having been paid as part of the purchase price and to constitute an amount which the Tax Lessor has at risk with respect to the item; and

(ii) The Tax Lessor shall be treated as having agreed for Federal income tax purposes (and only such purposes) to pay to the Property Owner the balance of the purchase price (the "Installment Loan") for each item of the Property in installments in the amounts and on the dates set forth in Annex C hereto, together with interest on the unpaid balance outstanding from time to time at the rate of 16 1/2%, or such other rate as may be agreed in writing between the Property Owner and the Tax Lessor with respect to each Closing Date, per year payable on the payment dates set forth in Annex C (the sum of the installment payment and the interest payment with respect to each item of the Property which is payable on each date set forth in Annex C is referred to as the "Installment Loan Payment" payable on such date).

(c) Lease Term and Rental Payments. The term of the Deemed Lease for each item of the Property shall be from the Closing Date for such item of Property to and including the Lease Termination Date for such item set forth in Annex A hereto unless sooner terminated as the result of the occurrence of a "disqualifying event" within the meaning of Section 5c.168(f)(8)-8 of the Temporary Regulations; and the Property Owner shall be treated as having agreed for Federal income tax purposes (and only such purposes) to make rental payments to the Tax Lessor under each Deemed Lease equal in amounts to, and payable on the same dates as, the Installment Loan Payments with respect to the item of the Property covered by such Deemed Lease, as set forth in Annex C.

(d) Payments of Rental and Installment Loan Payments. The rental payment and Installment Loan Payment which are payable on each payment date set forth in Annex C hereto with respect to each item of the Property shall for Federal income tax purposes (and only such purposes) each be treated as having been paid automatically and without any action by either Property Owner or Tax Lessor on each such date. Each such payment obligation by either Property Owner or Tax Lessor is by its terms treated as payable on its respective payment date only to the extent that the corresponding payment due from the other is treated as having been paid pursuant to the foregoing sentence or otherwise.

(e) Property Owner Purchase at End of Lease Term. At the end of the term of the Deemed Lease for each item of the Property, the Property Owner shall be treated for Federal income tax purposes (and only such purposes) as acquiring ownership of the item automatically from the Tax Lessor without the payment of any consideration and without any other action by either Property Owner or Tax Lessor.

3. Representations, Warranties, and Covenants by the Property Owner.

The Property Owner hereby represents, warrants, and covenants to the Tax Lessor as follows:

(a) Immediately prior to the Closing Date for each item of Property, the Property Owner shall be the owner for Federal income tax purposes of such item of Property;

(b) Neither the Property Owner nor any other person other than the Tax Lessor has claimed or will claim, on its Federal income tax returns or otherwise, investment credit or cost recovery deductions with respect to any costs included in the Property by the Property Owner through the Closing Date for such item of the Property;

(c) Assuming the Tax Lessor's adjusted basis (within the meaning of Section 168(f)(8)(D)(ii)(III) of the Code) in each item of the Property is not more than the purchase price of such item as set forth in Annex A hereto, each item of the Property is "qualified leased property" (as defined in Section 168(f)(8)(D)(ii) of the Code), which was or will be placed in service by



the Property Owner within three months prior to, and before, the Closing Date therefor and will not be affected by an abandonment currently scheduled or contemplated by the Property Owner;

(d) The adjusted basis (within the meaning of Section 168(f)(8)(D)(ii)(III) of the Code) of the Property Owner in each item of the Property on the Closing Date therefor is not less than the purchase price of the item set forth in Annex A hereto;

(e) The present class life (or, where applicable, the useful life under Section 167 of the Code) and the recovery class under Section 168(c)(2) of the Code for each item of the Property in the hands of the Tax Lessor are as set forth in Annex A hereto;

(f) The Property Owner has not entered into, and will not enter into, any agreement which relates to costs included in the Property by it through the date of this Agreement in respect of any item of the Property to which the provisions of Section 48(d) or 168(f)(8) of the Code apply, except this Agreement;

(g) During the term of the Deemed Lease with respect to each item of the Property, the item will not cease to be "Section 38 property" within the meaning of Section 48(a) of the Code with respect to the Tax Lessor and the Property Owner;

(h) During the term of the Deemed Lease with respect to each item of the Property, the Property Owner will not sell or assign (collectively "Transfer") its interest in the item or in the Deemed Lease with respect to the item unless (i) the Tax Lessor consents to the Transfer, (ii) the transferee assumes the Property Owner's interest in this Agreement with respect to the item, including the Deemed Lease and the deemed Installment Loan Payments and all of the other obligations under this Agreement with respect to the item, without relieving the Property Owner of any of its obligations under this Agreement, and (iii) the transferee furnishes a written consent and the transferee and the Tax Lessor file statements, in both cases at the time and in the manner provided in Section 5c.168(f)(8)-2(a)(5) of the Temporary Regulations;

(i) The amount of the investment credit and cost recovery deductions that the Tax Lessor shall be allowed with respect to any item of the Property will not be limited by the application to the Property Owner of the at-risk rules under Section 46(c)(8) or Section 465 of the Code;

(j) The Installment Loan for each item of the Property bears a reasonable rate of interest within the meaning of Section 5c.168(f)(8)-7(b)(2) of the Temporary Regulations under the Code or an arm's-length rate of interest as defined in Section 1.482-2 of the regulations under the Code;

(k) The amount that the Tax Lessor has at risk with respect to the Property at the time each item of the Property is first placed in service under the Deemed Lease and at all times thereafter to and including 120 days after the Closing Date with respect to such item, will not be less than 10% of the purchase price of such property as set forth in Annex A hereto, as provided in Section 5c.168(f)(8)-4 of the Temporary Regulations.

(l) The Property Owner is a corporation duly incorporated, validly existing and in good standing under the laws of the jurisdiction of its incorporation, and is duly authorized and empowered to execute and deliver this Agreement and any other document pursuant to this Agreement, and to fulfill and comply with the terms, conditions, and provisions hereof and thereof; each such agreement, document, instrument or certificate has been or will be (at the time of its delivery) duly authorized, executed and delivered and constitutes or will constitute (at the time of delivery) the valid, legal and binding obligation of the Property Owner, enforceable in accordance with its terms;

(m) Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated, nor the fulfillment of, or compliance with, the terms and provisions hereof will conflict with, or result in a breach of, any of the terms, conditions or provisions of the certificate of incorporation or the by-laws of the Property Owner or of any bond, debenture, note, mortgage, indenture,

agreement or other instrument to which the Property Owner is now a party or by which it or its property may be bound, or constitutes or would constitute (with the giving of notice or the passage of time, or both) a default thereunder, or result in the creation or imposition of any lien, charge, security interest or other encumbrance of any nature whatsoever upon any property of the Property Owner, or upon any item of the Property;

(n) Neither the execution and delivery by the Property Owner of this Agreement nor the consummation of the transaction contemplated in this Agreement nor the fulfillment of, or compliance with, the terms and provisions of this Agreement, will conflict with, or result in a breach of, any of the terms, conditions or provisions of any law, or any regulation, order, injunction or decree of any court or governmental instrumentality;

(o) No consent, authorization, approval or registration with any governmental or public body or authority is required in connection with the execution and delivery by the Property Owner of this Agreement, or the fulfillment of or compliance with the terms, conditions and provisions hereof;

(p) The interest of the Tax Lessor created by this Agreement for Federal income tax purposes is not subject to any lien, charge, encumbrance, or other prior claim of any mortgagee or other creditor of the Property Owner or any other third party; and

(q) Neither the execution and delivery of this Agreement, nor the consummation of the transactions herein contemplated, nor the fulfillment of, or compliance with, the terms and provisions hereof will subject the Tax Lessor to regulation by any railroad regulatory authority or agency (including, without limitation, the Interstate Commerce Commission, the United States Railroad Administration or the Department of Transportation).

#### 4. Agreements Relating to Federal Income Tax Reporting.

GECC agrees that the Tax Lessor, and the Property Owner agrees that it, on their respective Federal income tax

returns will report their respective receipts and disbursements provided for in Sections 2 and 5 of this Agreement as if such receipts and disbursements had actually been received or disbursed, as the case may be, in cash on the date the receipt or disbursement is payable as provided in this Agreement. Each party agrees that, promptly upon any request from time to time of the other party, it will confirm or cause to be confirmed in writing that all payments of rental under each Deemed Lease or of Installment Loan Payments theretofore treated as having been received or disbursed by it have been so reported on its Federal income tax returns.

5. Payment for Casualty Occurrence.

If, during the term of the Deemed Lease with respect thereto an event (other than an "Excluded Event") occurs requiring the Tax Lessor to recapture all or a portion of Investment Credit and/or Cost Recovery Deductions with respect to any item of Property (any such occurrence being hereinafter called a "Casualty Occurrence" and any item of the Property which becomes the subject of a Casualty Occurrence being hereinafter referred to as the "Item"), then the Property Owner shall promptly notify the Tax Lessor with respect thereto. The term Excluded Event shall include (i) an event occurring by reason of any act of commission or omission, misrepresentation, breach of any agreement, covenant or warranty contained herein by the Property Owner or subsequent transferee, assignee or user thereof or (ii) an event occurring solely by reason of any act of commission or omission of Tax Lessor. Notwithstanding the foregoing, an Excluded Event shall not occur if an item of Property shall be or become worn out, lost, stolen, destroyed or in the reasonable opinion of Property Owner irreparably damaged from any cause whatsoever, or shall be acquired by condemnation or otherwise by the United States Government or any other governmental entity.

On the date of the Casualty Occurrence with respect to an Item, the Item shall be treated for Federal income tax purposes (and only such purposes) as having been sold by the Tax Lessor to the Property Owner for the amount set forth in the next sentence and the term of the Deemed Lease for the Item shall terminate. The amount realized by the Tax Lessor on the sale of the Item shall be equal to (i) the unpaid principal balance of the Installment Loan with respect to

the Item (after taking into account the payments provided for in the following paragraph), which unpaid balance shall be treated as having been cancelled by the Property Owner, plus (ii) an amount to be paid in cash by the Property Owner to the Tax Lessor equal to the Casualty Value set forth in Annex D hereto for the Item. The Casualty Value set forth in Annex D hereto for the Item on the Payment Date next preceding the date of the Casualty Occurrence shall be paid in cash on the later of (i) the Payment Date set forth in Annex D hereto next succeeding the date of the Casualty Occurrence or (ii) thirty days after the date of the Casualty Occurrence.

The Property Owner shall be treated as having agreed for Federal income tax purposes (and only such purposes) to make a rental payment to the Tax Lessor under the Deemed Lease on the date of the Casualty Occurrence with respect to the Item equal in amount to the payment on the Installment Loan referred to in the next sentence. The Tax Lessor shall be treated as having agreed for Federal income tax purposes (and only such purposes) to make a payment to the Property Owner on the date of the Casualty Occurrence with respect to the Item in respect of principal and accrued interest (at the rate provided for in Section 2(b)(ii)) on the Installment Loan for the Item equal in amount to (i) the Installment Loan Payment with respect to the Item due on the next succeeding Payment Date set forth in Annex C hereto times (ii) a fraction the numerator of which equals the number of days from the day after the last Payment Date set forth in Annex C hereto to and including the date of the Casualty Occurrence and the denominator of which equals the number of days from the day after the last such Payment Date to and including the next succeeding Payment Date. The rental payment and the payment on the Installment Loan referred to in this paragraph shall for Federal income tax purposes (and only such purposes) each be treated as having been paid automatically and without any action by either the Property Owner or the Tax Lessor on the date of the Casualty Occurrence.

The Property Owner shall report to the Tax Lessor no less than annually (or at such other intervals as may be agreed upon in writing by the parties hereto), but in no event later than the time required for timely inclusion in the Federal income tax returns of the Tax Lessor, such item or items of the Property which have been the subject of a disposition or any other event (whether or not such disposition or event would otherwise be required to be reported

under this Agreement) which will, or in the reasonable opinion of the Tax Lessor could, result in a requirement that the Tax Lessor recapture any amounts for Federal income tax purposes in respect of any item or items of the Property (a "Recapture Event"). The report shall provide such specificity as the Tax Lessor shall reasonably require to complete its Federal income tax returns for any years to which such Recapture Event relates. The Property Owner shall keep such records and provide such assistance to the Tax Lessor as the Tax Lessor may find necessary to file its Federal income tax returns and to contest any related matter before any level of the Internal Revenue Service or before any court.

The Property Owner shall maintain, and shall furnish to Tax Lessor, such information and records as shall be necessary to comply with all rules and regulations or other official documents or statements, proposed or adopted, of the Internal Revenue Service or the U. S. Treasury Department (including, without limitation, Revenue Rulings, Treasury Regulations and Treasury Decisions) which address the proper accounting treatment for Federal income tax purposes for property of the type and character of the Property, including, without limitation, any which require the adoption of a specified method of accounting, and any which address the recapture of Investment Credit or Cost Recovery Deductions with respect to any item of the Property. In the absence of the Internal Revenue Service or the U.S. Treasury Department proposing or adopting such rules and regulations, the Property Owner shall maintain, and shall furnish to Tax Lessor, such information and records as shall be necessary to comply with procedures proposed or adopted by the Association of American Railroads or generally used in the railroad industry.

6. Interest in the Property for Purposes Other Than Federal Income Tax Purposes.

Neither this Agreement nor any of the transactions provided for or treated as having occurred herein for Federal income tax purposes shall impair, restrict, encumber or otherwise affect the ownership and possessory interest of the Property Owner in each item of the Property for any purpose other than Federal income tax purposes. Nothing in this Agreement shall be construed as affording the Tax Lessor any ownership or other interest in any item of the Property for any purpose other than Federal income tax purposes.

7. Indemnity Against Loss of Tax Benefits.

(a) This Agreement has been entered into on the assumption that the Tax Lessor will be the owner of each item of the Property for Federal income tax purposes, and (1) will be entitled to such deductions, credits and other benefits as are provided by the Code to the owner of the items, including (i) deductions under Section 168 of the Code with respect to the purchase price of each item of the Property as set forth in Annex A hereto, commencing in 1982 and using the percentages set forth in Section 168(b)(1)(A) of the Code for each item of the Property based on the recovery class for the item set forth in Annex A hereto (the "Cost Recovery Deductions"), (ii) an investment credit, pursuant to Section 38 of the Code, equal to at least 10% of the purchase price of each item of the Property set forth in Annex A hereto (the "Investment Credit"), and (iii) deductions for interest on the Installment Loan with respect to each item of the Property in the amounts and at the times set forth in Annex C hereto (the "Interest Deductions") and (2) will be required to include in gross income rental payments with respect to each item of the Property in the amounts and at the times set forth in Annex C hereto and, to the extent properly includible in income, any payment of Casualty Value or any indemnity payment under this Section or Section 9.

(b) If, (1) by reason of any act of commission or omission, misrepresentation, breach of any agreement, covenant or warranty contained herein by the Property Owner, or (2) by reason of any act of commission or omission, misrepresentation, breach of any agreement, covenant or warranty by any person to whom the Property Owner has transferred ownership or possession of any item of the Property or has sold or assigned the Deemed Lease with respect thereto or by any subsequent transferee thereof, or (3) by reason of any amendment to the Code or the regulations under the Code enacted or adopted prior to January 1, 1988, the Tax Lessor shall lose the right to claim, shall not claim (as the result of a good faith determination, after consultation with tax counsel for Property Owner, of

tax counsel of Tax Lessor that such claim is not properly allowable), shall suffer a disallowance of, or shall be required to recapture all or any portion of the Investment Credit or the Cost Recovery Deductions or the Interest Deductions with respect to any item of the Property, or shall be required to treat as income any amount with respect to the transactions provided for in this Agreement or otherwise with respect to any item of the Property, other than the rental and other payments treated as having been made by the Property Owner pursuant to Sections 2(c) and 5 hereof (any such event being hereinafter called a "Loss"), then (A) if such Loss, as reasonably determined by either the Property Owner or the Tax Lessor, is as a result of an event referred to in clause (3) of this Section 7(b) with respect to any Property within 6 months after the Closing Date for such Property the Property Owner shall have the option (written notice of the exercise thereof to be given by the Property Owner to the Tax Lessor no later than 30 days after the earlier of (i) written notice to the Property Owner by the Tax Lessor, or (ii) written notice to the Tax Lessor from the Property Owner, of such Loss) to purchase from the Tax Lessor all, but not less than all, the Property purchased on such Closing Date at a price equal to the Cash Payment made to the Property Owner on such Closing Date plus interest thereon at the average published prime commercial lending rate of Manufacturers Hanover Trust Company from such Closing Date to the date of payment with respect to the exercise of such option which shall be a date not more than 60 days after the written notice to the Property Owner or the Tax Lessor, as the case may be, of such Loss and (B) if such Loss is not described in clause (A) above or if the option provided for in such clause (A) is not exercised the Property Owner shall pay to the Tax Lessor, as an indemnity, on 60 days' written notice to the Property Owner by the Tax Lessor of such Loss (but not prior to the earlier of (i) the filing of a return or the acceptance of an audit report in which such loss is reflected and (ii) the payment by the Tax Lessor of the additional Federal income tax, as the case may be, which becomes due as a result of the Loss) such amount or amounts which, after deduction of all taxes required to be paid by the Tax Lessor in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall be equal to the aggregate additional Federal income taxes payable by the Tax Lessor from time to time as a result



of such Loss plus the amount of any interest, penalties or additions to tax payable as a result of such Loss; provided, however, that the Property Owner indemnity obligation hereunder shall be reduced by the amount of any Casualty Value payment made by the Property Owner pursuant to Section 5 hereof if the Loss relates to an item of Property which was the subject of a Casualty Occurrence, the Casualty Value with respect thereto has been paid pursuant to Section 5 hereof or if the Loss results solely from a disposition of Tax Lessor's interest in the Property other than a transfer of such interest after a default by the Property Owner hereunder. The Property Owner shall not be obligated pursuant to this Section 7(b) for a Loss arising solely by reason of an item becoming worn out, lost, stolen, destroyed or, in the reasonable opinion of Property Owner, irreparably damaged from any cause whatsoever, or being acquired by condemnation or otherwise by the United States Government or any other governmental entity, if Casualty Value with respect to such item has been paid. If as a result of a Loss not the subject of an option payment by the Property Owner under clause (A) above, the aggregate Federal income taxes paid by the Tax Lessor for any taxable year shall be less than the amount of such taxes which would have been payable by the Tax Lessor had no such Loss occurred, then the Tax Lessor shall pay the Property Owner the amount of such difference in taxes, plus any additional tax benefits realized by the Tax Lessor as the result of such payment; provided, however, that the Tax Lessor shall not be obligated to make any payment pursuant to this sentence to the extent that the amount of such payment would exceed (x) the amount of all prior payments by the Property Owner to the Tax Lessor pursuant to clause (B) of this Section 7(b) in respect of a Loss, less (y) the amount of all prior payments by the Tax Lessor to the Property Owner under this sentence. Any payment due to the Property Owner from the Tax Lessor pursuant to this Section 7(b) shall be paid within 60 days after the Tax Lessor realizes any such savings in its income taxes or additional tax benefits, as the case may be. If Tax Lessor shall not claim the Investment Credit, the Cost Recovery Deductions or the Interest Deductions, as provided for in this Section 7(b), and the amount of the indemnity payable by the Property Owner under clause (B) above as a result of this failure to claim the aforesaid tax benefits exceeds \$150,000, then the Property Owner may,

within the 30 day period following notification to the Property Owner of the Loss resulting therefrom, make a request that Tax Lessor file a claim for refund with respect to such item. Thereupon, such request to file a claim for refund shall be treated in the same manner, mutatis mutandis, as a proposed adjustment under Section 7(c).

(c) If, at the conclusion of an audit and of such administrative proceedings with the Internal Revenue Service, if any, as tax counsel of Tax Lessor shall determine in its sole discretion to take, the Internal Revenue Service proposes an adjustment in the Federal Income Taxes of the Tax Lessor for which the Property Owner would be required to indemnify Lessor pursuant to Section 7(b) and the amount of the indemnity which the Property Owner would be required to pay would exceed \$150,000, Tax Lessor shall promptly notify Property Owner of the proposed adjustment. Upon receipt within ten days thereafter of a written request to do so from and at Property Owner's expense, Tax Lessor shall promptly request independent tax counsel selected by Tax Lessor and approved by Property Owner for such counsel's opinion whether the basis in law and in fact in favor of allowance of the credit or deduction claimed outweighs the basis in law and in fact to the contrary. If the opinion is to that effect and if Property Owner, within the 30 day period following the issuance of such opinion, requests Tax Lessor to do so, Tax Lessor shall contest such adjustment in a court of competent jurisdiction selected by tax counsel of Tax Lessor in its sole discretion, except that in conducting any contest of an adjustment which relates to whether or not this Agreement complies with the Temporary Regulations, the selection of such court shall be made by the Tax Lessor but only after consultation with, and due consideration of, any request made by the Property Owner. The Tax Lessor shall have full control over any contest pursuant to this Section 7(c) and shall not be obligated to appeal an adverse determination by any court. Tax Lessor shall not be required to take any action set forth in this Section 7(c) unless and until Property Owner shall have agreed to indemnify Tax Lessor in a manner satisfactory to Tax Lessor for any liability or loss which Tax Lessor may incur as a result of taking such action and shall have agreed to pay Tax Lessor on demand all out-of-pocket costs and

expenses (including the fees and disbursements of independent tax counsel) incurred by Tax Lessor in connection with taking such action, and Property Owner shall have paid to Tax Lessor an amount equal to the sum on an after-tax basis of any tax, interest, penalties and additions to tax which are required to be paid if tax counsel of Tax Lessor determines in its sole discretion to contest the adjustment by a proceeding for refund of amounts paid based on an adjustment proposed by the Internal Revenue Service. Upon receipt by Tax Lessor of a refund of any amounts paid by it based on such adjustment in respect of which amounts it shall have been paid an equivalent amount by Property Owner, Tax Lessor shall pay to Property Owner the amount of such refund plus any tax benefits realized by Tax Lessor as a result of such payment (but in no event in an amount greater than the amount paid to Tax Lessor by Property Owner which is the subject of such refund). At any time, whether before or after commencing to take the action set forth in this Section 7(c), Tax Lessor may decline to take such action by notifying Property Owner in writing that Property Owner is relieved of its obligations to indemnify Tax Lessor with respect to the adjustment proposed by the Internal Revenue Service or such portion thereof as may be specified in such notice. The Property Owner shall be obligated to pay to Tax Lessor the amounts specified in this Section 7(c) promptly after Tax Lessor has taken all the action that it has agreed in this Section 7(c) to take.

(d) If any item of income, deduction or credit realized by the Tax Lessor with respect to any item of the Property shall not be treated as derived from, or allocable to, sources within the United States for any taxable year (any such event being hereinafter referred to as a "Foreign Loss"), then the Property Owner shall notify the Tax Lessor of such Foreign Loss no later than the time required for the timely inclusion of such Foreign Loss in the Federal income tax returns of the Tax Lessor. In addition, the Property Owner shall pay to the Tax Lessor as an indemnity, on 60 days' written notice to the Property Owner by the Tax Lessor, such amount which, after deduction of the net amount of all taxes required to be paid by the Tax Lessor in respect of the receipt of such amounts under the laws of any Federal, state or local government or taxing authority of the United States, shall equal the sum of (i) the excess of (A) the foreign tax credit to which the Tax Lessor would have been entitled for such year had no such Foreign Loss occurred over (B) the

foreign tax credit to which the Tax Lessor was entitled after giving effect to such Foreign Loss; and (ii) the amount of any interest, penalties or additions to tax payable as a result of such Foreign Loss.

(e) Upon the making of any repurchase or indemnity payment hereunder, the Tax Lessor shall make appropriate adjustments (if any are necessary) to Annex D hereto.

#### 8. Successors and Assigns.

This Agreement shall be binding on and inure to the benefit of any successors or assigns of the respective parties hereto.

#### 9. General.

(a) General Indemnity. The Property Owner agrees to indemnify the Tax Lessor against and hold it harmless from any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, taxes, expenses and disbursements, including legal fees and expenses, of whatsoever kind and nature imposed on, incurred by or asserted against the Tax Lessor in any way relating to or arising out of this Agreement or any of the transactions provided for herein, except for any tax which the Property Owner is not obligated to pay or provide indemnity against pursuant to Section 9(b) hereof.

(b) Taxes. The Property Owner agrees to pay as and when due and payable, and to indemnify the Tax Lessor against and hold it harmless from, any and all taxes, fees or other charges imposed by any Federal, state, local or other government or taxing authority which would not have been imposed if this Agreement had not been entered into and the transactions contemplated herein had not been completed, except for any net income tax or other tax on or measured by the Tax Lessor's net income.

(c) Expenses. The Property Owner agrees to pay, or reimburse the Tax Lessor for, all its and the Tax Lessor's out-of-pocket expenses incident to the preparation, execution and delivery of this Agreement and the consummation of the transactions contemplated herein.

(d) Insurance. The Property Owner will, at its own expense, cause to be carried and maintained (i) insurance with respect to which the Tax Lessor is the loss payee in an amount sufficient to satisfy the Property Owner's obliga-

tions under Section 5 hereof and (ii) liability insurance in amounts consistent with prudent business practice with respect to third-party personal injury and property damage arising from the use or operation of or otherwise involving each item of the Property during the term of the Deemed Lease with respect thereto.

(e) Effect of this Section 9 on Construction of this Agreement. The inclusion of this Section 9 in this Agreement shall not be construed as in any way modifying the provisions set forth in Section 6 hereof or in any way implying the acquisition by the Tax Lessor of any ownership or other interest in any item of the Property for any purpose other than Federal income tax purposes.

#### 10. Conditions to Closings.

The obligations of Tax Lessor to purchase for Federal income tax purposes each item of Property listed in Parts 1 through 6, respectively, of Annex A hereto and to enter into the transactions hereby contemplated to occur on the respective Closing Dates are subject to (i) the fulfillment, on or before the first Closing Date, of the conditions fulfilled in respect of the first closing date under the Agreement dated as of November 1, 1981 between the parties hereto and referred to as the 1981 Locomotives and Passenger Cars Agreement, including the receipt by the Tax Lessor of a legal opinion, officers' certificates, secured lender's consent, trust arrangements, appraisal and other documents, and in respect to each other Closing Date the conditions fulfilled in respect of the second closing date under the 1981 Locomotives and Passenger Cars Agreement, in all cases with such changes in references and dates and bring downs as are appropriate for the respective Closing Dates under this Agreement, together with such other documents and materials which Tax Lessor may reasonably request in connection therewith and (ii) on or before any Closing Date the Financial Accounting Standards Board not having issued any statement or interpretive announcement that would require this Agreement to be treated by Tax Lessor as a lease under Statement of Financial Accounting Standards No. 13 or otherwise requiring the Tax Lessor to record a loss, a charge to income or write-off during or with respect to calendar year 1982.

#### 11. Termination, Amendment, Governing Law.

This Agreement may not be terminated or amended without the written consent of the parties hereto, and shall be governed by and construed under the laws of the District of Columbia.

12. Survival of Agreement.

The obligations and liabilities of the Property Owner arising under this Agreement shall continue in full force and effect, notwithstanding the expiration or other termination of this Agreement or any Deemed Lease until all such obligations have been met and such liabilities have been paid in full.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

NATIONAL RAILROAD PASSENGER  
CORPORATION

By \_\_\_\_\_  
Name:  
Title:

GENERAL ELECTRIC CREDIT  
CORPORATION


By William R. Hammock  
Name: William R. Hammock  
Title: Manager - Rail

12. Survival of Agreement.

The obligations and liabilities of the Property Owner arising under this Agreement shall continue in full force and effect, notwithstanding the expiration or other termination of this Agreement or any Deemed Lease until all such obligations have been met and such liabilities have been paid in full.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

NATIONAL RAILROAD PASSENGER  
CORPORATION

By   
Name: LAWRENCE D. GISSON  
Title: VA COORDINATE DEVELOPMENT

GENERAL ELECTRIC CREDIT  
CORPORATION

By \_\_\_\_\_  
Name: William R. Hammock  
Title: Manager - Rail

DISTRICT OF COLUMBIA      ss:

I, the undersigned Natary Public in and for the district aforesaid, do hereby certify that Willaim R. Hammock and Lawrence D. Gilson whose names are signed to the foregoing document, bearing the date of December 22, 1981, are proved by the oath of creditable witnesses to be Rail-Manager of General Electric Credit Corporation and Vice President Corporate Development of National Railroad Passenger Corporation.

  
Notary Public

My Commission Expires:

My Commission Expires April 14, 1983



1982 Locomotives and Passenger Cars AgreementThe PropertyParts 1 through 6

(1) Item	(2) Property Owner's Adjusted Basis/ Purchase Price	(3) Cash Payment	(4) Lease Termination Date	(5) Present Class Life (or where applicable, Useful Life)	(6) 150 Percent of Present Class Life (or where applicable, 90 Percent of Useful Life)	(7) 168(c)(2) Class of Recovery Property
*	*	25.5% of the Pur- chase Price	22 years from Clos- ing Date	15 years	22.5 years	5 years

\* This Annex A will be amended on or before each Closing Date to reflect those items of Property of the same type and nature as sold under the 1981 Locomotives and Passenger Cars Agreement, which Property shall have a maximum Purchase Price of \$250,000,000 (less the Purchase Price of items previously purchased under this Agreement and items purchased on such Closing Date and previously purchased under the 1982 Track and Betterments Agreement).

STATEMENT REQUIRED UNDER SECTION 5c.168(f)(8)-2(a)(3)(ii)  
OF THE TEMPORARY REGULATIONS UNDER SECTION 168(f)(8) OF  
THE INTERNAL REVENUE CODE

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1. This statement is filed with respect to an Agreement dated as of December 22, 1981 (the "Agreement") between General Electric Credit Corporation and National Railroad Passenger Corporation (the "Property Owner") pursuant to which \_\_\_\_\_ is the Tax Lessor (as defined in the Agreement).

2. The address of the Tax Lessor is \_\_\_\_\_ and its taxpayer identifying number is \_\_\_\_\_. The address of the Property Owner is \_\_\_\_\_, and its taxpayer identifying number is \_\_\_\_\_.

3. The income tax returns of the Tax Lessor are filed with the District Director for \_\_\_\_\_, \_\_\_\_\_ and the income tax returns of the Property Owner are filed with the District Director for \_\_\_\_\_.

4. The properties with respect to which the Tax Lessor and Property Owner have elected pursuant to the Agreement to have the provisions of Section 168(f)(8) apply are listed on Schedule I hereto. The properties were placed in service (determined as defined in Section 5c.168(f)(8)-6(b)(2)(i) of the Temporary Regulations under Section 168(f)(8)) on the dates, were leased by the Tax Lessor to the Property Owner beginning [insert Closing Date as applicable] for the term, and constitute the recovery property class listed on Schedule 1 hereto.

5. The unadjusted basis of the Tax Lessor in the properties is listed in Schedule 1 hereto.

[ \_\_\_\_\_ ]  
Tax Lessor

By \_\_\_\_\_  
Name:  
Title:

NATIONAL RAILROAD PASSENGER  
CORPORATION  
Property Owner

By \_\_\_\_\_  
Name:  
Title:

Loan and Rental Payments  
Expressed as % of Debt

<u>Payment Number</u>	<u>Amount of Interest</u>	<u>Amount of Principal</u>	<u>Installment Loan Payment</u>	<u>Amount of Rental Payment</u>
1	16.50000	.59384	17.09384	17.09384
2	16.40202	.69182	"	"
3	16.28787	.80597	"	"
4	16.15488	.93896	"	"
5	15.99995	1.09389	"	"
6	15.81946	1.27438	"	"
7	15.60919	1.48465	"	"
8	15.36422	1.72962	"	"
9	15.07883	2.01501	"	"
10	14.74636	2.34748	"	"
11	14.35902	2.73482	"	"
12	13.90778	3.18606	"	"
13	13.38208	3.71176	"	"
14	12.76963	4.37421	"	"
15	12.05614	5.03770	"	"
16	11.22492	5.86892	"	"
17	10.25655	6.83729	"	"
18	9.12840	7.96544	"	"
19	7.81410	9.27974	"	"
20	6.78294	10.81090	"	"
21	4.49914	12.59470	"	"
22	2.42102	14.67282	"	"

Casualty Values Schedule

<u>After Payment Number*</u>	<u>Casualty Value**</u> <u>As a % of Purchase Price***</u>
0	25.50
1	29.07
2	28.49
3	27.29
4	25.47
5	21.84
6	20.35
7	18.69
8	16.99
9	15.36
10	13.69
11	12.12
12	10.56
13	9.01
14	7.56
15	6.20
16	4.85
17	3.67
18	2.57
19	1.66
20	0.89
21	0.40
22	0.09

\* The first payment date, with respect to each item of Property, shall be the same day of the month of Closing Date for such item in the twelfth month after the month in which such Closing Date occurs and the succeeding payment dates shall be each annual anniversary thereafter.

\*\* The term Purchase Price and Payment Date shall have the meaning assigned to such terms in the Agreement dated as of December 22, 1981, between GECC and Amtrak. The Casualty Value for any date other than a Payment Date shall be the Casualty Value set forth as of the next preceding Payment Date provided, however, that on or before Payment Date Number 5 the Casualty Value shall also include interest on such amount at 14% per annum for each day elapsed from such next preceding Payment Date to and including such other date.

\*\*\* In connection with the calculation of Casualty Value pursuant to Section 5, the Purchase Price shall be reduced by the Purchase Price of any item of Property for which a Casualty Value payment has been made pursuant to Section 5.